

**REMARKS/ARGUMENTS**

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

Claims 1-20 are pending.

Claims 1-20 stand rejected in the Office Action mailed October 6, 2003.

The Examiner has objected to the drawings. Corrected drawings are submitted herewith.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner rejected claims 1-5, 8-13, and 15-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,535,798 (hereinafter "Bhatia").

The Examiner rejected claims 1-2, 4-14, and 19-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,373,768 (hereinafter "Woo") or U.S. Patent 5,953,685 (hereinafter "Bogin '685").

The Examiner rejected claims 1-2, 4-5, 8-13, and 19-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 5,996,084 (hereinafter "Watts").

The Examiner rejected claims 3, and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,996,084 (hereinafter "Watts") or U.S. Patent 5,953,685

(hereinafter "Bogin '685") or U.S. Patent 6,373,768 (hereinafter "Woo") in view of U.S. Patent 6,535,798 (hereinafter "Bhatia").

The Examiner rejected claims 6, 17, and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,996,084 (hereinafter "Watts") or U.S. Patent 6,535,798 (hereinafter "Bhatia") in view of U.S. Patent 6,373,768 (hereinafter "Woo") or U.S. Patent 5,953,685 (hereinafter "Bogin '685").

### **35 U.S.C. § 112, first paragraph, Rejections**

Examiner rejected claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention without undue experimentation. The Examiner has stated in part that:

The specification alleges that the present invention can be practiced with only some of the aspects or without the specific details (paragraphs 2-3, page 5, specification); that the order of the description is irrelevant (first full paragraph, page 6, specification); and that (first full paragraph, page 6, specification): *Lastly, repeated usage of the phrase "in one embodiment" does not necessarily refer to the same embodiment, although it may.*" The Examiner submits that such statements in the specification are confusing and an attempt to add material which has not been expressly disclosed or properly incorporated.

(10/6/03, Office Action, p. 3)

Applicants respectfully disagree. The Examiner has failed meet his burden to establish a reasonable basis to question the enablement provided for the claimed invention. *In re Wright*, 999 F.2d, 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993). In providing a reasonable basis, an Examiner's conclusion of a lack of enablement should be based in part on a finding that "undue experimentation" is necessary. Factors used for determining undue experimentation include (a) the breadth of claims, (b) the nature of the invention, (c) the state of the prior art, (d) the level of one of ordinary skill, etc. *In re Wands*, 858 F.2d, 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988). The Examiner has failed to provide any analysis of these factors.

Regardless, applicants provide notice to the Examiner of numerous issued patents containing language in their specifications that is identical to the language cited by the Examiner in his Office Action of October 6, 2003. *See U.S. Patent Nos. 6,694,397; 6,693,546; 6,249,904; 6,691,170, etc.* For these reasons, applicants respectfully traverse the Examiner's rejection and submit that claims 1-20 are enabled under 35 U.S.C. § 112, first paragraph, and do no contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention without undue experimentation.

The Examiner rejected claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner has stated in part that:

The specification alleges that the present invention can be practiced with only some of the aspects or without the specific details (paragraphs 2-3, page 5, specification); that the order of the description is irrelevant (first full paragraph, page 6, specification); and that (first full paragraph, page 6, specification): *Lastly, repeated usage of the phrase "in one embodiment" does not necessarily refer to the same embodiment, although it may.*" The Examiner submits that such statements in the specification are confusing and an attempt to add material which has not been expressly disclosed or properly incorporated.

(10/6/03, Office Action, pp. 3-4)

Applicants respectfully disagree. The Examiner has failed to provide any basis as to how the applicants did not have possession of the claimed invention. Applicants provide notice to the Examiner of numerous issued patents containing language in their specifications that is identical to the language cited by the Examiner in his Office Action of October 6, 2003. *See U.S. Patent Nos. 6,694,397; 6,693,546; 6,249,904; 6,691,170, etc.* For these reasons, applicants respectfully traverse the Examiner's rejection and submit that claims 1-20 contain subject matter which was described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention under 35 U.S.C. § 112, first paragraph.

**35 U.S.C. § 112, second paragraph, Rejections**

Examiner rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner has stated in part that:

The specification alleges that the present invention can be practiced with only some of the aspects or without the specific details (paragraphs 2-3, page 5, specification); that the order of the description is irrelevant (first full paragraph, page 6, specification); and that (first full paragraph, page 6, specification): *Lastly, repeated usage of the phrase “in one embodiment” does not necessarily refer to the same embodiment, although it may.* renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed, thereby rendering the scope of the claim(s) unascertainable. See MPEP §2173.05(d)

(10/6/03, Office Action, pp. 4-5)

Applicants respectfully disagree. MPEP §2173.05(d) describes claim language, that has been held to be indefinite. This language includes the use of the phrases “such as,” and “for example” in the text of claims, and not in the text of the specification. The Examiner has failed to identify any claim language that is indefinite and has improperly rejected the present claims.

Regardless, applicants provide notice to the Examiner of numerous issued patents containing language in their specifications that is identical to the language cited by the Examiner in his Office Action of October 6, 2003. *See* U.S. Patent Nos. 6,694,397; 6,693,546; 6,249,904; 6,691,170, etc. For these reasons, applicants respectfully traverse the Examiner’s rejection and submit that claims 1-20 are not indefinite under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

**35 U.S.C. § 102(e) Rejections**

The Examiner rejected claims 1-5, 8-13, and 15-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,535,798 (hereinafter “Bhatia”). Applicants submit that claims 1-28 are not anticipated by Bhatia. In regard to the rejection of claims 1, 8, and 15, the Examiner has stated in part that:

Bhatia et al. disclose a system including a component (e.g., a processor) with a clock and a thermal management controller that monitors a temperature in the system. The thermal management controller varies the component between different performance states (e.g., cycles the processor between a high and a low performance state) when an over-temperature condition is detected. The thermal management controller further throttles the clock of the component while in the low performance state until the over-temperature condition is removed. See fig. 2-3, 8, 9, 15 and corresponding text.

(10/6/03, Office Action, p. 6)

Applicant respectfully submits that claims 1-20 are not anticipated by Bhatia. Amended claim 1 recites the feature of “*determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit*T\_n) is greater than a target temperature ( $T_t$ ). (col. 8, ll. 10-14) More specifically, Bhatia’s system transitions a processor from a high power state to a low power state until the system temperature falls below the target temperature. (Bhatia, col. 8, ll. 15-40) Bhatia does not explain how his target temperature ( $T_t$ ) is determined. Nor, does Bhatia describe anywhere in his patent, “*a maximum junction temperature*

*of the integrated circuit*" since his routine is only concerned with the target temperature and system temperature. Therefore, Bhatia does not disclose "**determining ... a maximum sustainable power level for an integrated circuit based upon ... a maximum junction temperature of the integrated circuit**" as taught by claim 1. Because Bhatia does not disclose this feature as taught by claim 1, applicants respectfully submit that claim 1 and claims 2-10 which depend from claim 1, are not anticipated under 35 U.S.C. §102(e) by Bhatia.

The Examiner also rejected independent claim 11 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 11 discloses substantially similar limitations as claim 1, and recites "*first circuitry to: determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit*". (Emphasis added) Because Bhatia does not disclose this feature as taught by applicants' claim 11 from which claims 12-14 depend, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 11-14 are not anticipated under 35 U.S.C. §102(e) by Bhatia.

The Examiner also rejected independent claim 15 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 15 discloses substantially similar limitations as claim 1, and recites "*a BIOS coupled to the integrated circuit to: determine a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit*" (Emphasis added) Because Bhatia does not disclose this feature as taught by applicants' claim 15 from which claims 16-18 depend, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 15-18 are not anticipated under 35 U.S.C. §102(e) by Bhatia.

The Examiner also rejected independent claim 19 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 22 discloses substantially similar limitations as claim 1, and recites "*determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit*". (Emphasis added) Because Bhatia does not disclose this feature as taught by applicants' claim 19 from which claim 20 depends, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 19-20 are not anticipated under 35 U.S.C. §102(e) by Bhatia.

The Examiner rejected claims 1-2, 4-14, and 19-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,373,768 (hereinafter "Woo") or U.S. Patent 5,953,685 (hereinafter "Bogin '685"). Applicants submit that claims 1-20 are not anticipated by Woo or Bogin '685. In regard to the rejection of the claims, the Examiner has stated in part that:

Woo et al. ('768-IDS) disclose a memory system configured to provide thermal regulation of a plurality of memory devices is disclosed....Bogin et al. disclose a thermal management program wherein memory access rate is correspondingly controlled. See fig. 2-4 and corresponding text..

(10/6/03, Office Action, pp. 6-7)

Applicants respectfully submit that claims 1-20 are not anticipated by Woo or Bogin '685. Amended claim 1 recites the feature of "*determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit*" (Emphasis added) The Examiner states that this feature is not disclosed by Woo or Bogin '685. In regard to the rejection of claims 3, and 15-18 under 35 U.S.C. § 103(a), the Examiner states that "*The base references [Watts, Bogin, and Woo] disclose the intervening limitations, but does not disclose use of the BIOS in the context of the claims.*"

Because neither Woo nor Begin '685 disclose this feature as taught by claim 1, applicants respectfully submit that claim 1 and claims 2-10 which depend from claim 1, are not anticipated under 35 U.S.C. §102(e) by Woo or Begin '685.

The Examiner also rejected independent claim 11 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 11 discloses substantially similar limitations as claim 1, and recites "*first circuitry to: determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit*" (Emphasis added) Because, neither Woo nor Begin '685 disclose this feature as taught by applicants' claim 11 from which claims 12-14 depend, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 11-14 are not anticipated under 35 U.S.C. §102(e) by Woo or Begin '685.

The Examiner also rejected independent claim 19 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 19 discloses substantially similar limitations as claim 1, and recites "*determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit*" (Emphasis added) Because, neither Woo nor Begin '685 disclose this feature as taught by applicants' claim 19 from which claim 20 depends, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 19-20 are not anticipated under 35 U.S.C. §102(e) by Woo or Begin '685.

The Examiner rejected claims 1-2, 4-5, 8-13, and 19-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 5,996,084 (hereinafter "Watts"). Applicants submit that claims 1-28 are not anticipated by Watts. In regard to the rejection of the claims, the Examiner has stated in part that:

Watts discloses a method and system (13) for controlling sensed CPU dynamic operating characteristics, such as CPU temperature, temperature

change and power consumption, including the steps of and circuitry for sensing at least one dynamic CPU operating characteristic (140) while the CPU operates at a first clock rate (134)....

(10/6/03, Office Action, p. 7)

Applicants respectfully submit that claims 1-20 are not anticipated by Watts. Amended claim 1 recites the feature of “*determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit*” (Emphasis added) The Examiner states that this feature is not disclosed by Watts. In regard to the rejection of claims 3, and 15-18 under 35 U.S.C. § 103(a), the Examiner states that “*The base references [Watts, Begin, and Woo] disclose the intervening limitations, but does not disclose use of the BIOS in the context of the claims.*” Because Watts does disclose this feature as taught by claim 1, applicants respectfully submit that claim 1 and claims 2-10 which depend from claim 1, are not anticipated under 35 U.S.C. §102(e) by Watts.

The Examiner also rejected independent claim 11 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 11 discloses substantially similar limitations as claim 1, and recites “*first circuitry to: determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit*” (Emphasis added) Because, Watts does not disclose this feature as taught by applicants’ claim 11 from which claims 12-14 depend, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 11-14 are not anticipated under 35 U.S.C. §102(e) by Watts.

The Examiner also rejected independent claim 19 under 35 U.S.C. §102(e) for the reasons set forth in the rejection of claim 1. Claim 19 discloses substantially similar limitations as claim 1, and recites “*determine with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of*

*the integrated circuit*" (Emphasis added) Because, Watts does not disclose this feature as taught by applicants' claim 19 from which claim 20 depends, for the reasons discussed above with regard to claim 1, applicants respectfully submit that claims 19-20 are not anticipated under 35 U.S.C. §102(e) by Watts.

### 35 U.S.C. § 103(a) Rejections

The Examiner rejected claims 3, and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,996,084 (hereinafter "Watts") or U.S. Patent 5,953,685 (hereinafter "Bogin '685") or U.S. Patent 6,373,768 (hereinafter "Woo") in view of U.S. Patent 6,535,798 (hereinafter "Bhatia"). Claims 1-20 are patentable under 35 U.S.C. §103 in view of the references cited by the Examiner. Neither of the cited references teach (nor does the Office Action cite any portion which even suggests) the presently claimed feature of ***determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit.***

In regard to the rejection of claim 3, the Examiner has stated in part that:

The base references disclose the intervening limitations, but does not disclose use of the BIOS in the context of the claims. Bhatia et al. disclose storing the thermal management program in BIOS (col. 7, lines 53-65; col. 9, lines 12-26; col. 12)

(10/6/03 Office Action, p. 8)

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

However, nowhere is there any indication that the references provide any motivation for the recited combination. Instead, it appears the teachings of the present application have been used as a blueprint to gather together and assemble various components of the prior art in the manner contemplated by applicants. This is a classic example of the use of hindsight reconstruction, and cannot properly be used as grounds for rejecting the present claims.

The U.S. Court of Appeals for the Federal Circuit has strongly criticized such applications of hindsight by specifically indicating that when an obviousness determination is made based upon a combination of references, even a patent examiner "must show reasons that the skilled artisan, confronted with the same problems as the inventor *and with no knowledge of the claimed invention*, would select the elements from the cited prior art references for combination in the manner claimed." *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (Emphasis added). Merely indicating, as the Examiner argues in his Office Action of November 1, 2002, that the claimed invention would be obvious to one of ordinary skill in the art based on the combination of the references is utterly inadequate. *Rouffet*, at 1357. Instead, what is needed is a showing of motivation, either from the references themselves or the knowledge of those of ordinary skill in the art, for the combination being relied upon. *Rouffet*, at 1357.

In the present case, there has been no showing of such motivation. Instead, the Examiner attempts to deconstruct the subject matter of the claims of the present application into its constituent components, states where each such component may be found in one of the cited references, and then concludes that it would have been obvious to combine the references to arrive at the claimed invention. This bare bones analysis is not sufficient to support a determination of obviousness of the present application. The burden is on the Examiner to show *why* one is so motivated as to come up with the combination being relied upon. *Rouffet*, at 1357-1358 ("If such a rote invocation could suffice to supply a motivation to combine, the more sophisticated scientific fields would rarely, if ever, experience a patentable technical advance. Instead, in complex scientific fields [an infringer or the Patent Office] could routinely identify

the prior art elements in an application, invoke the lofty level of skill, and rest its case for [obviousness]. To counter this potential weakness in the obviousness construct, the suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness.")

In regard to the rejection of claim 3, even if Watts, Begon, or Woo were combined with Bhatia, such a combination would lack one or more features of claim 1 from which claim 3 depends. Claim 1 recites the feature of an *determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit.* (Emphasis added) Neither Watts, Begon, Woo, nor Bhatia disclose this feature as seen by the following analysis. As discussed above, neither Watts, Begon, nor Woo discuss the use of BIOS in the context of the claims, as stated by the Examiner. (10/6/03, Office Action, p. 8) However, although Bhatia states "the thermal management routine may be implemented in another software layer (e.g., ... BIOS routine)", Bhatia's thermal management routine does not describe *determining with a BIOS, a maximum sustainable power level for an integrated circuit based upon ... a maximum junction temperature of the integrated circuit.* (Claim 1) (emphasis added) as discussed above.

Because neither Watts, Begon, Woo nor Bhatia disclose this feature as taught by applicants and given that claims 2-10 depend directly or indirectly from claim 1, applicants respectfully submit that claims 1-10 are not obvious under 35 U.S.C. §103(a) by Watts, Begon, Woo in view of Bhatia.

The Examiner also rejected claims 15-18 under 35 U.S.C. §103(a) for the reason set forth in the rejection of claim 3. Amended claim 15 discloses substantially similar limitations as claim 1, and recites "*a BIOS coupled to the integrated circuit to: determine a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design*

*characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit”* (Emphasis added) Because, neither Watts, Bogin, Woo nor Bhatia disclose this feature as taught by applicants for the reasons discussed above with regard to claim 3, applicants respectfully submit that claim 15 and claims 16-18 which depend from claim 15, are not obvious under 35 U.S.C. §103(a) by Watts, Bogin, or Woo in view of Bhatia.

The Examiner rejected claims 6, 17, and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,996,084 (hereinafter “Watts”) or U.S. Patent 6,535,798 (hereinafter “Bhatia”) in view of U.S. Patent 6,373,768 (hereinafter “Woo”) or U.S. Patent 5,953,685 (hereinafter “Bogin ‘685”). The Examiner states in part that:

The applied base references do not expressly teach concentrating on thermal management issues as it relates to memory. Both Woo et al. (Abstract; fig. 3, 4, 6, 7, 10, 11 and corresponding text) and Bogin et al. (see fig. 1-4) disclose the application of thermal management techniques to memory.

(10/6/03 Office Action, p. 9)

In regard to the rejection of claim 6, even if Watts or Bhatia, were combined with Woo or Bogin ‘685, such a combination would lack one or more features of claim 1 from which claim 6 depends. Claim 1 recites the feature of an internal processor to execute programming code and having a write state machine (WSM). (Emphasis added) Neither Watts, Bogin, Woo, nor Bhatia disclose this feature as seen by the following analysis. Neither Watts, Bogin, Woo, nor Bhatia disclose this feature as seen by the following analysis. As discussed above, neither Watts, Bogin, nor Woo discuss the use of BIOS in the context of the claims, as stated by the Examiner.

(10/6/03, Office Action, p. 8) However, although Bhatia states “the thermal management routine may be implemented in another software layer (e.g., ... BIOS routine)”, Bhatia’s thermal management routine does not describe ***determining with a BIOS, a maximum sustainable power***

*level for an integrated circuit based upon ... a maximum junction temperature of the integrated circuit.* (Claim 1) (emphasis added) as discussed above.

Because neither Watts, Beglin, Woo nor Bhatia disclose this feature as taught by applicants and given that claims 2-10 depend directly or indirectly from claim 1, applicants respectfully submit that claims 1-10 are not obvious under 35 U.S.C. §103(a) by Watts or Bhatia, in view of Woo or Beglin.

The Examiner also rejected claim 14 under 35 U.S.C. §103(a) for the reason set forth in the rejection of claim 6. Amended claim 11, from which claim 14 depends discloses substantially similar limitations as claim 1, and recites “first circuitry to: **determine with BIOS a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit**” (Emphasis added) Because, neither Watts, Beglin, Woo nor Bhatia disclose this feature as taught by applicants for the reasons discussed above with regard to claim 6, applicants respectfully submit that claim 11 and claims 12-14 which depend from claim 11, are not obvious under 35 U.S.C. §103(a) by Watts or Bhatia in view of Woo or Beglin.

The Examiner also rejected claim 17 under 35 U.S.C. §103(a) for the reason set forth in the rejection of claim 6. Amended claim 15, from which claim 17 depends, discloses substantially similar limitations as claim 1, and recites “*a BIOS coupled to the integrated circuit to: determine a maximum sustainable power level for an integrated circuit based upon environmental system characteristics and design characteristics of the integrated circuit, wherein the environmental system characteristics include ambient air temperature and the design characteristics include a maximum junction temperature of the integrated circuit*” (Emphasis added) Because, neither Watts, Beglin, Woo nor Bhatia disclose this feature as taught by applicants for the reasons discussed above with regard to claim 6, applicants respectfully submit

that claim 15 and claims 16-18 which depend from claim 15, are not obvious under 35 U.S.C. §103(a) by Watts or Bhatia in view of Woo or Beglin.

### CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Sanjeet Dutta at (408) 947-8200.

If there are any additional charges, please charge them to our Deposit Account No. 02-2666.

Respectfully submitted,

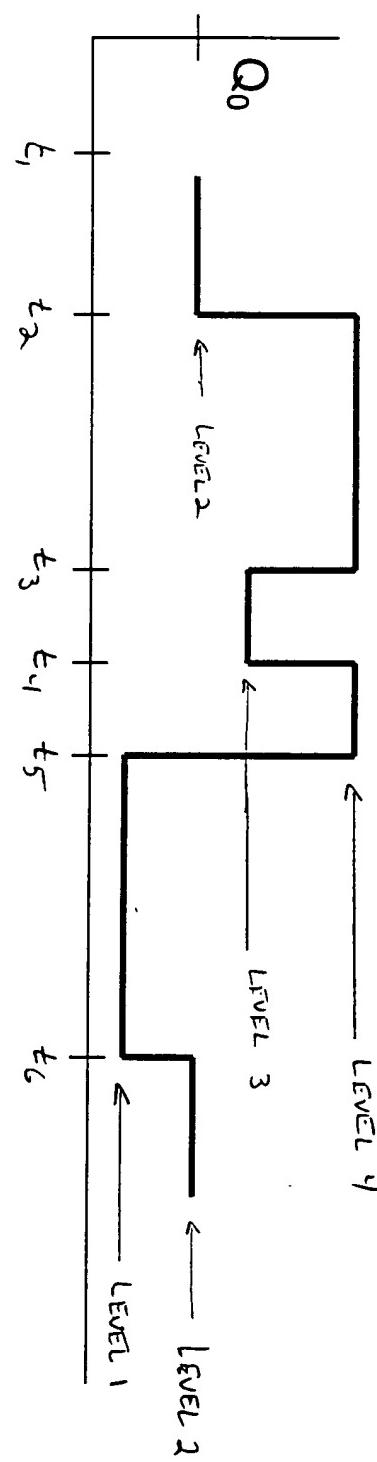
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FIG. 3  
(Prior Art)

### Power Level



### Temperature

